

THE HONORABLE KARIN J. IMMERGUT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HANNAH'S INC., and HANNAH'S PET
HOSPITALS OF OREGON, INC.,

Defendants.

NO. 3:20-cv-01688-IM

[PROPOSED] CONSENT DECREE

I. INTRODUCTION

1. This action originated when Amber Willett ("Willett") filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") on August 21, 2018. Willett alleged that Hannah's Inc., and Hannah's Pet Hospitals of Oregon, Inc, ("Defendants") discriminated against her in violation of Title VII of the Civil Rights Act of 1964, as amended ("Title VII") when it subjected her to an unlawful hostile work environment because of her sex (female) and constructively discharged her.

1 2. On March 2, 2020, the EEOC issued a Letter of Determination for her charge
2 finding that there was reasonable cause to believe that Defendants violated Title VII with regard
3 to Willett. Thereafter, EEOC attempted to conciliate the charge but was unsuccessful.

4 3. The EEOC filed this lawsuit on September 29, 2020, and a First Amended
5 Complaint on May 19, 2021, in the United States District Court for the Portland District of
6 Oregon, alleging that Defendants subjected Willett to an unlawful hostile work environment
7 because of her sex (female), and constructively discharged her.

8 4. The parties want to conclude fully and finally all claims arising out of the EEOC's
9 First Amended Complaint and Willett's charge of discrimination filed with the EEOC. This
10 Consent Decree is not an adjudication or finding on the merits of this case and does not in any
11 way constitute an admission of liability or wrongdoing on the part of Defendants. Any such
12 liability or wrongdoing is expressly denied. In recognition of the costs and risks related to
13 continued litigation, the defendants want to conclude fully and finally all claims arising out of
14 the EEOC's First Amended Complaint and Willett's EEOC charge. The parties enter into this
15 Consent Decree to further the objectives of equal opportunity under Title VII.
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18 II. JURISDICTION AND VENUE

19 5. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
20 1343 and 1345. This action is authorized pursuant to Sections 706(f) (1) and (3) of Title VII of
21 the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f) (1) and (3), and Section 102
22 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

23 6. The employment practices alleged to be unlawful were committed within the
24 jurisdiction of the United States District Court for the District of Oregon at Portland.
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III. SETTLEMENT SCOPE

7. This Consent Decree is the final and complete resolution of all Title VII allegations of unlawful employment practices contained in Willett's discrimination charge, in the EEOC's administrative determination, and in the First Amended Complaint filed herein, including all claims by Plaintiff EEOC and Defendants for attorney fees and costs.

8. This Consent Decree applies to Hannah's Inc., and Hannah's Pet Hospitals of Oregon, Inc., and their successors and assigns including any purchasers during the term of the Consent Decree.

9. Defendants will provide prior written notice to any potential purchaser of defendants' business, or a purchaser of all or a portion of defendants' assets, and to any other potential successor, of the EEOC's lawsuit, the allegations raised in the EEOC's First Amended Complaint, and the existence and contents of this Consent Decree.

10. Defendants will not condition the receipt of monetary relief on Willett's agreement to: (a) maintain as confidential the alleged facts and/or allegations underlying her charge and this Complaint and the terms of this Consent Decree; (b) waive her statutory right to file a charge with any government agency; (c) refrain from reapplying for a job at Hannah's Inc., and Hannah's Pet Hospitals of Oregon, Inc.; or (d) a non-disparagement and/or confidentiality agreement.

11. No waiver, modification or amendment of any provision of this Consent Decree shall be effective unless made in writing and approved by the parties to this Consent Decree, and any substantive change, modification or amendment of any provision of this Consent Decree shall also require approval by the Court.

IV. MONETARY RELIEF

12. In settlement of this lawsuit, Defendants shall pay Willett the total amount of \$43,179.95 within (10) days of the date of entry of this Consent Decree by delivering the following checks to Willett by overnight mail at an address provided by EEOC. Defendants shall simultaneously transmit copies of the checks made payable to Willett together with an accounting of the employee deductions and employer contributions made, and tracking information for the delivery of the checks to: EEOC-SEFO_COMPLIANCE@eoc.gov and SEFO_HANNAHS@EEOC.GOV.

- a. A check in the amount of \$679.95 in payment of lost wages payable to Willett. The check shall be reduced by any applicable deductions for the employee's portion of FICA and applicable federal and state income tax withholdings related to the payment of wages. Defendants shall pay the employer's portion of FICA. Defendants shall include a statement of payments and deductions; and
- b. A separate check in the amount of \$42,500.00 in payment for compensatory damages payable to Willett;
- c. EEOC shall provide Defendants with W-4 and W-9 forms completed by Willett along with her address within five (5) business days of the entry of this Consent Decree. Defendants will issue Willett an IRS form W-2 for the wage payment and an IRS form 1099 for the payment of non-wage damages.

V. INJUNCTIVE AND OTHER RELIEFA. General Provisions

13. Defendants and its officers, agents, employees, including all managers, supervisors, and human resources staff, and its successors and assigns, including any operators or

1 purchasers of Defendants, are enjoined from engaging in practices that constitute discrimination
2 under Title VII based on an employee's sex, including harassment.

3 B. Anti-Discrimination Practices Consultant

4 14. Within thirty (30) days of the entry date of this Consent Decree, Defendants shall
5 retain a third-party independent consultant ("Consultant") with expertise in employment
6 discrimination under Title VII and related employment policies and practices. Prior to retention
7 of the Consultant, Defendants shall provide materials related to the Consultant's qualifications
8 and expertise, particularly as they relate to and are consistent with advancing the purpose and
9 requirements of this Consent Decree, to the EEOC for review and comment. Within fifteen (15)
10 days of receipt, the EEOC will advise the Defendants of any comments. The Consultant must be
11 retained for the entire duration of the Consent Decree. The Defendants shall bear all costs of
12 retaining the Consultant to perform the duties required by this Consent Decree.

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14 15. The Consultant will assist Defendants in the review, development, and
15 promulgation of policies, practices, and training consistent with the requirements of this Consent
16 Decree, and specifically with regard to compliance with Title VII. The Consultant will receive,
17 investigate and make written recommendations to Defendants regarding the resolution of all
18 complaints of discrimination, a copy of each such recommendation to be provided to the EEOC
19 as part of Defendants' annual reporting. The Consultant shall also work with Defendants to
20 ensure that all persons receive training required by Paragraphs 24-30 of this Consent Decree.
21 The Consultant shall work with Defendants to ensure that Defendants' performance and
22 discipline policies hold owners, managers and employees accountable for engaging in conduct
23 that is prohibited under Title VII or this Consent Decree or failing to take appropriate action
24 regarding complaints of discrimination, including sexual harassment, and retaliation.
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16. The Consultant will have access to all records, documents, data and other sources of information, including interviews of Defendants' personnel, which the Consultant reasonably deems necessary or appropriate to perform the duties required by the Consent Decree.

C. Anti-Discrimination Policies and Procedures

17. Within ninety (90) days from the date of entry of this Decree and for its duration, Defendants shall with the assistance of the Consultant, as needed, develop and implement anti-discrimination policies and procedures that prohibit discrimination, including sexual harassment, and retaliation, explain to employees their rights and responsibilities under the EEO laws, and are subject to periodic updating to reflect changes in anti-discrimination laws. The policies will state that they are promulgated at the direction of and with the endorsement by the highest level of the company. These policies and procedures shall be provided to the EEOC for review and comment no later than thirty (30) days prior to implementation. Within fourteen (14) days of receipt, the EEOC will advise the Defendants of any comments. EEOC agrees to review the proposed policies and procedures in good faith.

18. Defendants' anti-discrimination policies shall contain specific provisions relating to sexual harassment and retaliation. The harassment section of the policies will provide a definition and examples of sexual harassment tailored to Defendants' workplaces and must include:

- a. A statement that each employee has the right to be free from harassing behavior while at work, including a clear and comprehensive description of sexual harassment (both *quid pro quo* and hostile work environment), and to be free from retaliation for complaining about harassment or participating as a witness in an investigation of any harassment complaint;

- 1 b. Defendants' strong and clear commitment to a workplace free of sexual harassment
2 including inappropriate behavior from any owner, manager or supervisor;
- 3 c. A statement encouraging any employee to come forward if he/she believes he/she
4 has been harassed, has witnessed harassment, or has been subjected to retaliation;
- 5 d. A description of the possible consequences up to and including termination that will
6 be imposed for a violation of the policy against sexual harassment and/or
7 retaliation;
- 8 e. A clearly described complaint process that provides accessible and confidential
9 avenues of complaint with the contact information, including name, address, and
10 telephone number of persons both internal (a designated HR contact) and external
11 (Oregon Bureau of Labor & Industries (BOLI) and EEOC) to whom employees can
12 report sexual harassment;
- 13 f. A statement that complaints can be made orally or in writing and can be made
14 anonymously;
- 15 g. A statement that Defendants shall notify the Consultant about any complaint of
16 harassment, discrimination and retaliation they receive and that the Consultant shall
17 have the sole responsibility of investigating and responding to the complaints; a
18 statement that Consultant will make recommendations upon completing the
19 investigation of any sexual harassment complaint, which will not be binding on
20 Defendants but which will be given due consideration by Defendants; and a
21 statement that Defendants will provide all recommendations made by Consultant to
22 the EEOC in the annual reports.
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- h. A statement that any employee may bring a complaint directly to BOLI and the EEOC and identify BOLI's and the EEOC's website address, telephone number, and email address;
- i. A commitment that the complaint process will be confidential, to the maximum extent feasible, for the person who brings a complaint about sexual harassment;
- j. A statement that Defendants' sexual harassment policy applies to all owners, operators, management officials, supervisors, vendors, suppliers, third parties, and customers;
- k. An assurance to employees that Defendants will take immediate and appropriate corrective action when it is determined that harassment, discrimination or retaliation has occurred; and
- l. An assurance that Defendants' disciplinary policies hold all employees, including owners, operators, management officials, and supervisors, accountable for failing to take appropriate action or engaging in conduct prohibited under this Decree.

19. Defendants' anti-discrimination policies shall include an investigation procedure to ensure fair and competent investigations of complaints of discrimination. The procedures shall, at a minimum, include requirements that: (a) Defendants will advise the Consultant of each complaint within two (2) business days of receipt; (b) each investigation will be conducted by the Consultant with a representative of Defendants who is not involved in the underlying complaint, observing for training purposes; (c) the investigation of a complaint will begin no later than two (2) business days after its receipt by Consultant and be completed within fifteen (15) business days; (d) the Consultant will make a recommendation on the resolution and any actions based on its investigation; (e) the findings and any corrective action will be memorialized

1 in a written report including, at a minimum, the allegations of the complaint, the identities of all
 2 named witnesses, all witness statements, a summary of documentary evidence, an explanation of
 3 investigative findings and a description of any corrective action taken; and (f) the results of each
 4 investigation, including a general description of the remedial actions taken or proposed, if any,
 5 will be communicated to the complainant by Defendants and Consultant within five (5) business
 6 days after the conclusion of the investigation. Defendants and Consultant will also follow up
 7 with each complainant during the investigation and within sixty (60) days after the conclusion of
 8 the investigation to inquire whether the complainant has been subjected to retaliation and advise
 9 the complainant to make another complaint if the individual was subjected to retaliation.
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11 20. Not later than ninety (90) days after the entry of this Consent Decree, Defendants
 12 shall distribute a written copy of its anti-discrimination policies to all employees both
 13 management and non-management. These policies will thereafter be distributed within ten (10)
 14 days to every employee hired or re-hired during the duration of this Consent Decree.
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16 D. Policies Designed to Promote Accountability

17 21. Within ninety (90) days from the date of entry of this Consent Decree and for its
 18 duration, Defendants shall adopt and implement policies and procedures that specifically advise
 19 all owners, general managers, managers, supervisors, and human resource personnel of their duty
 20 to ensure compliance with its EEO anti-discrimination policies, including Title VII, and the
 21 prohibition against retaliation. Defendants shall impose discipline, up to and including
 22 termination of employment, upon any supervisor, manager, hiring official, or human resources
 23 personnel, who it determines discriminates, harasses or retaliates against any employee.
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22. In conducting performance reviews, Defendants shall include EEO enforcement and compliance as standards for vice presidents, managers, supervisors, and human resource personnel.

E. Policy Modifications

23. If Defendants modify any of the policies or procedures identified in Paragraphs 17-20, they shall submit to the EEOC for its review and consideration the policies and procedures no later than thirty (30) days before adoption. Within fourteen (14) days of receipt, the EEOC will review the proposed modifications in good faith and advise Defendants of any comments.

F. Training

24. Defendants shall provide three annual trainings during the term of the Consent Decree as set forth below in paragraphs 25-26, at their own cost, either in person or remotely, interactive EEO training for all management and human resources personnel and all non-management employees about their policies prohibiting discrimination, including sexual harassment, and retaliation.

25. The first annual training shall be provided not later than one hundred fifty (150) days after entry of this Consent Decree, consisting of an in person or remote, interactive EEO training session to all owners involved in the management of Defendants, presidents, vice-presidents, managers, supervisors, and human resource professionals who provide advice and assistance to Defendants' management. The annual anti-discrimination and anti-retaliation trainings shall be no less than four (4) hours in duration, and include, at a minimum, an overview of Title VII with special emphasis on sexual harassment and retaliation. Defendants shall thereafter provide this training, either in-person or remotely, to all employees hired or promoted

1 into the role of president, vice-president, manager, supervisor or human resource professionals
2 within thirty (30) days of assuming that position.

3 26. The first annual training shall be provided not later than one hundred fifty (150)
4 days after entry of this Consent Decree, consisting of an in person or remote, interactive EEO
5 training seminar to all its employees, either in-person or remotely. These annual anti-
6 discrimination and anti-retaliation trainings for employees shall be no less than two (2) hours in
7 duration, and include, at a minimum, an overview of Title VII with special emphasis on
8 Defendants' EEO policies relating to sexual harassment and retaliation; Defendants' complaint
9 and investigation procedures and contact information for reporting discrimination, including
10 sexual harassment, and retaliation; bystander intervention techniques when employees witness
11 discrimination, harassment or retaliation occurring; that retaliation against an employee or
12 applicant who reports harassment or discrimination is prohibited; and contact information for
13 EEOC as a resource for inquiries and to report discrimination, harassment and retaliation. In
14 addition, Defendants thereafter shall provide this training to new hires, either in-person or
15 remotely, within thirty (30) days of the employee's hire date.

16 27. Not later than one hundred eighty (180) days before the three-year anniversary of
17 the entry of this Consent Decree, all managers, supervisors, and/or employees with responsibility
18 for investigating complaints regarding harassment, discrimination, and retaliation shall receive
19 in-person, interactive training about how to conduct such investigations. The workplace
20 investigations training shall be no less than six (6) hours, which may include the two (2) hour
21 training described in Paragraph 26 regarding Defendants' anti-harassment and anti-
22 discrimination policies, supervisory performance standards, and complaint and investigation
23 procedures.
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28. The in-person trainings described in Paragraphs 24-26 shall be developed and conducted by the Consultant or a third party with established experience conducting anti-discrimination and anti-retaliation training and workplace investigations recommended by the Consultant. All training materials and identification of the trainer must be submitted to the EEOC for review and comment no later than thirty (30) days prior to holding the first training sessions. Within fourteen (14) days of receipt, the EEOC will advise Defendants of any comments. EEOC agrees to review the proposed trainer and training materials in good faith.

29. If Defendants modify the EEO trainings identified in Paragraphs 24-26 during the duration of the Consent Decree, Defendants shall submit to the EEOC for its review and comment the proposed modifications no later than thirty (30) days before adoption. Within fourteen (14) days of receipt, the EEOC will advise Defendants of any comments. EEOC agrees to review the proposed modifications in good faith.

30. Defendants shall notify the EEOC of the completion of the annual training sessions described in Paragraphs 24-26 and shall specify the names and job titles of the individuals who participated in and completed the training. This information shall be provided as part of the annual reports Defendants submits to the EEOC.

G. Non-Disclosure of Information

31. Defendants shall ensure that no charge or allegation of discrimination against Defendants, and no reference to this lawsuit against Defendants, are included in Willett's personnel file. Defendants shall not disclose any information or refer to any charge of discrimination or this lawsuit in responding to requests for information about Willett. If asked, Defendants shall provide, consistent with its usual practice, a neutral job reference for Willett consisting of employment dates and positions held.

1 H. Posting

2 32. Defendants shall post a Notice to All Employees within five (5) days of entry of
 3 this Consent Decree. This Notice is attached as Exhibit A to this Consent Decree. The Notice
 4 shall be conspicuously posted on a bulletin board at all of Defendants' facilities for the duration
 5 of the Consent Decree.

6 I. Reporting

7 33. Defendants shall report to the EEOC for a period of three (3) years. The reporting
 8 period will run from the date of entry of this Consent Decree. The reports shall be in writing and
 9 submitted on an annual basis during the three-year reporting period to:

10 EEOC-SEFO_COMPLIANCE@eeoc.gov and SEFO_HANNAHS@EEOC.GOV. These annual
 11 reports shall contain the following information and attachments:

12 a. Certification that Defendants have:

- 13 1. Reviewed and revised their written policy and procedures
 14 and distributed copies of its policies as described in Paragraphs
 15 17-20;
- 16 2. Reviewed and revised their written policies and procedures to
 17 promote accountability as required by Paragraphs 21-22;
- 18 3. Complied with the training provisions enumerated in this
 19 Consent Decree, as provided in Paragraphs 24-26 and 28-30,
 20 and provided a list of all attendees, with job titles, for each
 21 training completed;
- 22 4. Complied with the Notice Posting requirement in Paragraph
 23 32;
- 24 5. Complied with all other provisions of this Consent Decree.

25 b. Copies of the following documents shall be included with each
 annual report:

1. A copy of the EEO policy and procedures maintained in accordance with the provisions of this Consent Decree;

2. A copy of its current EEO policy and a list of any changes, modifications or revisions to its EEO policies and procedures, if any, which concern or affect the subjects of discrimination, harassment or retaliation;

3. A report of the resolution of each internal formal or informal discrimination, harassment, or retaliation complaint made by employees, including:

- i. identification of all individuals involved in or subject to the complaint, including their titles and work locations;
- ii. the particulars of the complaint;
- iii. a summary of the investigation conducted by the Consultant according to the provisions of Paragraph 19 above;
- iv. Consultant determination and recommended corrective action taken;
- v. name(s) and title of individual(s) who received, investigated and or otherwise addressed and or took action based on the complaint; and
- vi. the home address, home and cell phone numbers, and e-mail address for any complainants.

34. During the pendency of this Consent Decree, Defendants shall make available a senior manager or human resource official, or other appropriate personnel, including the Consultant, for audits upon request by EEOC to determine compliance with this Consent Decree. EEOC shall provide notice of audit subject matter not later than five (5) business days in advance but, at a minimum, the audit shall include identification of any complaints about harassment received, the investigation conducted, whether the complaint was substantiated, and any remedial action taken. Any requested audit will be conducted at a mutually agreeable time and place.

J. Enforcement

35. If the EEOC determines that Defendants have not complied with the terms of this Consent Decree, the EEOC shall provide written notification of the alleged breach to Defendants. The EEOC shall not petition the Court for enforcement of this Consent Decree for at least thirty (30) days after providing written notification of the alleged breach. The EEOC and Defendants shall utilize the 30-day period to engage in good-faith efforts to resolve the dispute.

K. Retention of Jurisdiction

36. The United States Court for the District of Oregon at Portland shall dismiss this action with prejudice but retain jurisdiction over this matter for the duration of this Consent Decree for enforcement purposes.

37. This Consent Decree shall be in effect for three (3) years from the date of entry of the Consent Decree. If the EEOC petitions the Court for breach of this Consent Decree, and the Court finds Defendants to be in violation of the terms of the Consent Decree, the Court may extend the duration of this Consent Decree.

RESPECTFULLY SUBMITTED this 6th day of October 2021.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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Regional Attorney

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[PROPOSED] **ORDER APPROVING CONSENT DECREE**

The Court, having considered the foregoing stipulated agreement of the parties,
HEREBY ORDERS THAT the Consent Decree be, and the same hereby is, approved as the final
decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with
prejudice and without costs or attorneys' fees. The Court retains jurisdiction of this matter for
purposes of enforcing the Consent Decree approved herein.

DATED this ____ day of _____, 2021.

KARIN J. IMMERGUT
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2021 I electronically filed the foregoing document titled “[**PROPOSED**] **CONSENT DECREE**” with the Clerk of the Court using the CMF/ECF system, which will send notice of such filing to all counsel of record.

/s/Rebecca Eaton
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